

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 7/19/2006 - KW

Division: Growth Management

Bulk Item: Yes ☐ No ☒

Department: Planning and Environmental Res.

Staff Contact Person: Ty Symroski/Jerry D. Sanders

AGENDA ITEM WORDING: Discussion and guidance to staff regarding action to take in response to a challenge to the DCA Rule affirming Tier System Maps and Implementation Ordinances.

ITEM BACKGROUND: On July 7, 2006 (the last day for a challenge), the *Florida Keys Citizens Coalition* and *Protect Key West and the Florida Keys, Inc. d/b/a Last Stand* filed a challenge with the Department of Community Affairs to the five (5) Final Orders of the Department of Community Affairs which approved the maps and land development regulations adopted by the BOCC on March 15, 2006 to implement the Tier System Amendments to the Comprehensive Plan.

PREVIOUS RELEVANT BOCC ACTION: 1.) Adoption of Comprehensive Plan Amendments for creation of the Tier System in lieu of the present ROGO System beginning in July 2002 which became final February, 2006.

2.) Adoption of five (5) Land Development Regulations March 15, 2006 to implement the Tier System provided for in the Comprehensive Plan Amendments.

3.) Interim Development Ordinances (Moratoria) were begun on ROGO and NROGO allocations in CNA Areas (of two [2] acres or greater) in June 2004, expiring in December 2005.

4.) A further moratoria deferring the acceptance of all applications for allocation of building permits under ROGO was adopted March 15, 2006 (concurrently with the Tier Ordinances) to remain in effect until the Tier System Ordinances and Maps were adopted or July 14, 2006, whichever came first. This has been extended by the Growth Management Director administratively until this BOCC meeting under the "Legislation in Progress" doctrine.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: See attached Options for consideration.

TOTAL COST: Unknown.

BUDGETED: Yes ☐ No ☒

COST TO COUNTY: Unknown

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes ☐ No ☒

AMOUNT PER MONTH _____ **Year** _____

APPROVED BY: County Atty ☒ OMB/Purchasing ☐ Risk Management ☐

DIVISION DIRECTOR APPROVAL:

Ty Symroski 7/12/06

DOCUMENTATION: Included ☒ Not Required ☐

DISPOSITION: _____

AGENDA ITEM # _____

OPTIONS FOR BOCC REGARDING
CHALLENGE TO TIER SYSTEM MAPS AND ORDINANCES

1. Defend the challenge requesting a hearing before Department of Administrative Hearings (DOAH) as quickly as possible and oppose any continuances.
 - a. Continue the existing moratoria on the acceptance of ROGO and NROGO applications until resolution of the challenge. **Staff recommends this option with the exception of processing of applications for development of affordable housing done by not-for-profit organizations or in connection with the County participating as a partner therein.**
 - b. Discontinue the moratorium and accept ROGO applications under the ROGO Ordinance in effect prior to the implementation of the Tier Ordinances.
2. Defend the challenge to the Tier Ordinances; however agree to any reasonable extensions of time to which the challengers may request.
 - a. Continue moratoria same as 1.a. above. Staff does not recommend this option in the event that continuations are extended.
 - b. Same option for removal of moratoria as 1.b. above. Staff recommends this option in the event that extensions are agreed.
3. Concede to the challenge of the FKCC and Last Stand, eliminate the tiers and revert back to the ROGO System prior to the most recent Comprehensive Plan Amendment.
 - a. Staff does not recommend this option; however, if chosen by the BOCC this will require another Comprehensive Plan Amendment to eliminate the provisions for the Tier System.

ADDITIONAL INFORMATION

The Big Pine Key and No Name Key Habitat Conservation Plan having been approved by the Federal Fish & Wildlife Service, it is Staff's opinion that ROGO applications on those two (2) Keys may continue to proceed although they are presently limited to approximately ten (10) ROGO allocations per annum.

a. The Tier System was implemented for a number of reasons, all of which were thoroughly discussed at both public hearings with the Planning Commission and not less than eight (8) public hearings of the BOCC in 2004-2006. It was implemented in order to provide a more "user friendly" system for the citizens of the County in obtaining building permits, with some of its more useful features being:

1. Simpler.
2. More objective.
3. More predictable.
4. Approaches classifications based on habitat boundaries not lot lines.
5. Help to direct in the purchasing of sensitive land.
6. Helping direct development in less sensitive areas.

b. A thorough discussion of the history of the Tier System is found at the County Website under "Planning and Environmental Resources", "Topics of Interest" and "Tier System".

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

FLORIDA KEYS CITIZENS COALITION, INC.
and Protect Key West and the Florida Keys, Inc.
d/b/a "LAST STAND",

Petitioners

v.

FLORIDA DEPARTMENT OF COMMUNITY
AFFAIRS and MONROE COUNTY,

Respondents.

Post-It® Fax Note	7671	Date	7/7	# of pages	15
To	B. Shillinger	From	B. Shine		
Co./Dept.		Co.	DCA		
Phone #		Phone #	850-922-1683		
Fax #	305-292-3514	Fax #	850-922-2679		

Case No.:

DCA Final Order Nos.: DCA06-OR-123
DCA06-OR-124
DCA06-OR-125
DCA06-OR-126
DCA06-OR-127

PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS

Introduction

FLORIDA KEYS CITIZENS COALITION, INC. and Protect Key West and the Florida Keys, Inc. d/b/a "LAST STAND" file this Petition for Formal Administrative Proceedings pursuant to sections 120.569 and 120.57(1), Fla. Stat. to challenge five (5) Final Orders of the Department of Community Affairs approving Land Development Regulations adopted by Monroe County within the Florida Keys Area of Critical State Concern and state as follows:

1. The challenged final orders are: DCA06-OR-123, DCA06-OR-124, DCA06-OR-125, DCA06-OR-126, and DCA06-OR-127, all of which were published in the Florida Administrative Weekly, Volume 32, No.24, June 16, 2006.
2. The challenged final orders approve land development regulations that seek to implement portions of the Monroe County Comprehensive Plan and regulate land use and

development within Monroe County.

3. This challenge is based on the inconsistency of the subject Land Development Regulations (LDRs) and Tier Overlay District Maps with Chapter 380, Fla. Stat., the Area of Critical State Concern Act. The regulations are inadequate to protect the tropical hardwood hammock, pine rockland, and transitional wetland communities in the Keys.

4. Petitioners seek an administrative determination overturning the Final Orders on the basis that they are inconsistent with the requirements of Chapter 380, Fla. Stat., for the reasons stated below.

Identification of Petitioners and Other Parties

5. Petitioner, FLORIDA KEYS CITIZEN COALITION ("FKCC"), is a not-for-profit Florida corporation whose address is 10800 Overseas Highway, Marathon, FL., 3050.

6. Petitioner, Protect Key West and the Florida Keys, Inc. d/b/a "LAST STAND" ("LAST STAND") is a not-for-profit Florida Corporation whose address is P.O. Box 146, Key West, Florida 33041-0146.

7. Respondent, DEPARTMENT OF COMMUNITY AFFAIRS ("DCA") is a State agency exercising powers granted to it by Section 380.05, Fla. Stat. to approve or reject land development regulations that are enacted, amended, or rescinded by any local government in the Florida Keys Area of Critical State Concern ("ACSC"). DCA's address is 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

8. Respondent MONROE COUNTY, is a local, county government within the Florida Keys ACSC. The County's address is 500 Whitehead St., Key West, Florida 33040. Monroe County is required to adopt and maintain land development regulations that are consistent with its comprehensive plan and with Chapter 380 Fla. Stat.

Explanation of How Petitioners' Substantial Interests Are or Will be Affected

9. The FKCC is comprised of eleven organizations whose members live, work and

reside in Monroe County.

10. A substantial number of the members of the FKCC will be substantially and adversely affected by the Final Orders.
11. The FKCC is a substantially affected person in that it, and a substantial number of its members, has and have been directly involved in the development and enforcement of the Monroe County Comprehensive Plan and implementing land development regulations for over 20 years.
12. A substantial number of the FKCC's members own property and live within unincorporated Monroe County, and rely upon the Monroe County Comprehensive Plan and implementing land development regulations to protect their quality of life, and the near shore water quality upon which the Keys' economy depends, and their ability to safely evacuate from the Keys.
13. A substantial number of the FKCC's members use the near shore waters of the Florida Keys for recreation, fishing, swimming, and other uses that are dependant on the quality of that water.
14. A substantial number of the FKCC's members use the Tropical Hardwood Hammocks, Pinelands, and Transitional Wetlands within Monroe County for recreational, bird-watching, and other uses that are dependant on the quality of that habitat.
15. Among the FKCC's primary purposes is the coordination of the work of its members to promote, preserve and enhance the quality of life for residents of the Florida Keys and the biodiversity and sustainability of the Keys' natural environment.
16. The FKCC has expended significant member and financial resources throughout the past decade as an advocate and litigant in the administrative processes and litigation in 1994 and 1996 which resulted in the current comprehensive planning scheme including the challenged land development regulations. The FKCC has, as an advocate and litigant,

expended substantial resources to put into place the comprehensive plan provisions which required the adoption of the subject permanent habitat protections.

17. FKCC and its members are substantially affected by the Final Orders.

18. Petitioner, Protect Key West and the Florida Keys, Inc. d/b/a "LAST STAND" is a Florida not-for-profit corporation of approximately 300 citizens whose purpose is to protect and preserve the natural environment and quality of life in the Florida Keys. LAST STAND works to prevent environmental damage to the Florida Keys upland and wetland habitats of endangered and threatened species, Florida Keys Outstanding Florida Waters and National Marine Sanctuary, and represents its members in administrative and judicial proceedings to oppose land use and permitting decisions that have negative environmental impacts. In Monroe County, LAST STAND works to improve public access to the waterfront and to promote sustainable growth management and avoid commercial over-development with its concomitant negative impacts on traffic, housing and general quality of life.

19. A substantial number of LAST STAND's members own property and live within incorporated and unincorporated Monroe County, and rely upon the Monroe County comprehensive plan and its implementing land development regulations to protect their quality of life, near shore water quality, terrestrial habitat, and ability to safely evacuate.

20. A substantial number of the members of LAST STAND reside, own property, operate businesses, recreate, and bird watch within Monroe County, Florida and the near shore waters thereof. A substantial number of the members use the near shore waters of the Florida Keys for recreation, fishing, swimming, and other uses that are dependant on the quality of that water. A substantial number of the members use the Tropical Hardwood Hammocks, Pinelands, and Transitional Wetlands within Monroe County for recreation, bird-watching, and other uses that are dependant on the quality of that habitat. A substantial number of LAST STAND's members are substantially affected persons

within the meaning of the Florida Administrative Procedure Act.

21. LAST STAND is a "Substantially Affected Person" entitled to initiate this proceeding in accordance with the Florida Administrative Procedure Act.

22. LAST STAND is a resident of Monroe County, because the organization has members who reside in, own property in, or own or operate businesses within Monroe County.

23. A substantial amount of Petitioners' members will also be "adversely affected" to the extent that their water quality, personal safety, ability to recreate, bird watch and enjoy the the natural habitats of the Florida Keys will be adversely impacted by the land development regulations approved by the challenged Final Orders.

When and How Notice Was Received

24. Notice of the Final Orders was received via publication in the Florida Administrative Weekly, Volume 32, Number 24, June 16, 2006.

25. This Petition is filed within 21 days of the publication of the Notices of Final Orders.

Statement of Material Facts Disputed and Alleged

26. Final Order DCA06-OR-123 approves portions of Monroe County Ordinance No. 008-2006 ("Ord. 008-2006") which: "deletes requirements for the preparation of the Habitat Evaluation Index for properties containing hammock, requires an existing conditions report, vegetation survey, and grants of conservation easements, and limits clearing of native upland vegetation dependent on the tier system designation. (Final Order DCA06-OR-123 is attached as Exhibit "A" and Monroe County Ord. 008-2006 is attached as Exhibit "B.")

- a. Sec. 9.5-336 provides inadequate protection for endangered/threatened or protected species that are not observed on a surveyed parcel of land, and does not require the use of the most current State and Federal protected species lists.

- b. Sec. 9.5-336 arbitrarily fails to protect endangered, threatened and "of concern" plants less than 4" diameter, leaving small trees, shrubs, and herbaceous species unprotected and defeating efforts to restore previously cleared or storm damaged areas.
 - c. Sec. 9.5-336 arbitrarily fails to require the use of the Florida Exotic Pest Plant Council (FLEPPC) and the Florida Keys Invasive Exotic Task Force lists to identify pest plants.
 - d. Sec. 9.5-336 arbitrarily fails to require the identification of potential habitat of protected species.
 - e. Sec. Sec. 9.5-338 arbitrarily allows clearing on lots that receive points for aggregation, thus failing to protect the natural areas that aggregation is designed to protect.
27. **Final Order DCA06-OR-124 approves Monroe County Ordinance No. 009-2006 ("Ord. 009-2006") which revises the Rate of Growth Ordinance ("ROGO") and utilizes "tier overlay maps as the basis for the competitive point system; providing revised criteria for the building permit allocation system; establishing new allocations for sub areas; allowing the transfer of development exempt from ROGO provided the receiver site is located in Tier 3, is not in a velocity zone, and requires no clearing; and creating an appeal process."** (Final Order DCA06-OR-124 is attached as Exhibit "C" and Monroe County Ord. 009-2006 is attached as Exhibit "D.") More specifically:
- a. Sec. 9.5-120-4(6) states that outside of the Big Pine HCP, in Tier I, there will be three (3) annual allocations in the Upper Keys and three (3) in the Lower Keys. This is vague, arbitrary and capricious because it is not specified how these allocations will be determined. The ordinance fails to assign negative points for endangered species and habitat quality to direct development in Tier I away from the most important natural areas.

- b. Sec 9.5-122-1(g) (1) allows the Planning Commission to award additional dwelling units from future annual allocations to complete projects. This is arbitrary and capricious as it provides no standards or limits on whether or to what extent, such additional allocations can be awarded.
- c. Sec 9.5-122-1(g) (4) allows the BOCC to "make available for award up to one hundred percent of the affordable housing allocations available over the next five annual allocations." This is arbitrary and capricious and inconsistent with the comprehensive plan, which does not allow for allocations beyond the annual caps. In addition, this allowance may result in unacceptable evacuation and environmental impacts.
- d. Sec 9.5-122-2c (2) allows the planning commission, upon review of the market rate allocation applications and evaluation worksheets, to "adjust the points awarded for meeting a particular criteria, adjust the rankings as a result of changes in points awarded, or make such other changes as may be appropriate and justified." This is arbitrary and capricious and inconsistent with the comprehensive plan, as it allows the awarding of points other than as specified in the comprehensive plan and grants the Planning Commission unfettered discretion in the awarding of allocations.
- e. Sec. 9.5-122.3(f) fails to establish any required facts or findings as a condition precedent before the County can provide a form of administrative relief other than an offer to purchase.
- f. Sec. 9.5-122.4 establishes ROGO Evaluation Criteria which arbitrarily fail to prioritize the protection of protected species based upon their status or habitat based on its quality within each Tier.
- g. Sec. 9.5-266(a)(8) arbitrarily allows housing units permitted as "*affordable or employee housing*" to be used for market rate housing.

- h. This LDR allows the granting of 30 ROGO points to projects adjacent to native vegetation in Tier I or an SPA, as long as there is no clearing. This is arbitrary as it allows the type of indirect impacts which the Carrying Capacity Study determined should no longer be allowed.

28. Final Order DCA06-OR-125 approves Monroe County Ordinance No. 010-2006 ("Ord. 010-2006") which: "implements Goal 105 of the Monroe County Comprehensive Plan; provides criteria for designation of the tier boundaries, excluding Ocean Reef, a vested subdivision; and prioritizes land for public acquisition. The ordinance also contains a mechanism for property owners to obtain due process by requesting an amendment to the designation based on specific criteria." (Final Order DCA06-OR-125 is attached as Exhibit "E" and Monroe County Ord. 010-2006 is attached as Exhibit "F.")

- a. Sec. 9.5-256 (b), as amended, arbitrarily states that Tier boundaries should follow property lines, canals or roadways, instead of natural vegetative community boundaries.
- b. This LDR allows for arbitrary decisions as to designation when a parcel is both part of a large Tier I hammock and in a substantially developed subdivision. The adopted maps are inconsistent with regard to designation of parcels containing both natural and cleared areas. Given the underlying science concerning the need to protect all remaining natural areas, it is arbitrary and capricious for the LDR to fail to require designation in the most protective Tier for lands that meet or potentially meet criteria for more than one Tier.
- c. Sec. 9.5-256 (c)(1)(a) establishes a 4 acre criteria for designation of lands in Tier I that is arbitrary and capricious in that the relevant science does not support a categorical determination that natural areas below that size threshold require less

protection than those at or above that threshold.

- d. **Sec. 9.5-256 (c)(1)(e)** arbitrarily limits Tier I protections to "*known locations of threatened and endangered species . . . identified on the Threatened and Endangered Plant and Animal Maps . . .*" This is contrary to the science as the referenced maps are not the best available science and limiting protection to "known locations" of such species arbitrarily fails to protect locations which have not yet been verified as "known" locations, but which may or are likely to be important to protected species.
- e. The definition of Tier I is arbitrarily vague in that it does not specify whether *wetland* native vegetated areas are to be included, whether the four acres in "size area" refers only to "new growth of upland native vegetated areas" or also to "Natural areas", or how roads will impact the determination of the relevant "size area".
- f. **Sec. 9.5-256 (c) (3)** arbitrarily excludes habitat patches that are not "greater than 1 acre" in size from the protections afforded Special Protection Areas ("SPA"). This is inconsistent with the best available science, which does not support a categorical conclusion that habitat patches of one acre or less in size require less protection than those placed in the SPA category.
- g. **Sec. 9.5-256 (c) (3)(a)(2)** arbitrarily allows the existence of disturbed pinelands and hammocks with 40% coverage of exotics to break contiguity in Tier III-A (SPA) for purposes of determining whether an area meets the stated size thresholds. This is contrary to the science, which calls for the removal of exotic vegetation to restore habit and re-establish contiguity.
- h. **Sec. 9.5-256 (c)(3) (b)** arbitrarily allows for the removal of parcels from the SPA Tier for reasons unrelated to their habitat value, such as service by central sewer, the existence of a paved road at least 16' wide.

- i. **Sec. 9.5-256 (c)(3)(c)** arbitrarily requires a survey of any hammock less than 1.09 acres before designating it Tier III-A, while the balance of the LDR fails to require a survey of parcels below the size threshold set for Tier I before concluding that a parcel should not be placed in Tier I.
 - j. **Sec. 9.5-256 (c)(3)(e)** is vague and grants the County Commission unfettered discretion to adopt or not adopt a special master recommendation to change a parcel's Tier designation.
 - k. This LDR provides inadequate protection for transitional wetlands and "disturbed" salt marsh and buttonwood wetlands.
 - l. The development standards for Tier III-A (SPA) are inadequate to protect the natural areas placed in that Tier.
 - m. This LDR provides inadequate protections for threatened or endangered species or species of special concern.
29. **Final Order DCA 06-OR-126** approves **Monroe County Ordinance No. 011-2006** (Ord. 011-2006), which revises the Non-residential Rate of Growth Ordinance ("NROGO"). (Final Order DCA 06-OR-126 is attached as Exhibit "G" and Monroe County Ord. 011-2006 is attached as Exhibit "H.")
- a. **Sec. 9.5-124.3(a)4**, as revised, arbitrarily allows a "not - for - profit" NROGO exemption in the SPA that is not allowed in Tier I.
 - b. **Sec. 9.5-124.7 (f)**, as revised, fails to establish any required facts or findings as a condition precedent before the County can provide a form of administrative relief other than an offer to purchase.
30. **Final Order DCA06-OR-127** approves **Monroe County Ordinance No. 013-2006** ("Ord. 013-2006"), which: "implements Goal 105 of the Monroe County Comprehensive Plan utilizing the tier overlay maps for all land in unincorporated Monroe County between Key West and Ocean Reef, and designating the tier boundaries of Tier 1,

Tier 2, Tier 3, and Tier 3 Special Protection Areas." (Final Order DCA06-OR-127 is attached as Exhibit "I" and Monroe County Ord. 013-2006 is attached as Exhibit "J.")

- a. The following Sheets of the Tier Overlay Maps are inconsistent with the Tier adoption criteria in Policies 205.1 and 205.2, or otherwise fail to provide a high enough level of protection for the habitat on or connected to the relevant parcel or parcels:

1. Sheet 91
2. Sheet 105
3. Sheet 106
4. Sheet 108
5. Sheet 112
6. Sheet 113
7. Sheet 117-A
8. Sheet 119
9. Sheet 124
10. Sheet 125
11. Sheet 126
12. Sheet 134
13. Sheet 135
14. Sheet 137
15. Sheet 139
16. Sheet 141
17. Sheet 142
18. Sheet 145
19. Sheet 146
20. Sheet 147
21. Sheet 148
22. Sheet 150
23. Sheet 151
24. Sheet 152
25. Sheet 155
26. Sheet 156
27. Sheet 250
28. Sheet 252
29. Sheet 256
30. Sheet 281
31. Sheet 334
32. Sheet 370
33. Sheet 371
34. Sheet 387
35. Sheet 390

36. Sheet 400
37. Sheet 401
38. Sheet 412
39. Sheet 413
40. Sheet 414
41. Sheet 415-1
42. Sheet 425
43. Sheet 439
44. Sheet 441
45. Sheet 450
46. Sheet 467
47. Sheet 468
48. Sheet 482
49. Sheet 507
50. Sheet 516
51. Sheet 538
52. Sheet 546
53. Sheet 540
54. Sheet 548
55. Sheet 549
56. Sheet 553
57. Sheet 575
58. Sheet 579
59. Sheet 581

Concise Statement of Ultimate Facts Alleged

31. The land development regulations approved by the Final Orders are inadequate to protect the tropical hardwood hammock, pine rockland, and transitional wetland communities in the Keys and are thus inconsistent with the requirements of Chapter 380, Fla. Stat.

Rules or Statutes Petitioners Contend Require Reversal or Modification of the Agency's Proposed Action

32. The Final Orders are inconsistent with the Principles for Guiding Development as a whole, pursuant to s 380.0552 (7), Fla. Stat.

33. The Final Orders are inconsistent with Section 380.0552 (2)(a), Fla. Stat., because they fail to establish a land use management system that protects the natural environment of the Florida Keys.

34. The Final Orders are inconsistent with Section 380.0552 (7)(b), Fla. Stat., because

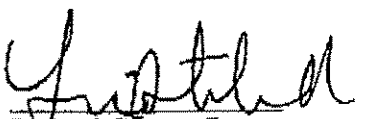
they fail to protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

35. The Final Orders are inconsistent with Section 380.0552 (7)(c), Fla. Stat., because they fail to protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
36. The Final Orders are inconsistent with s 380.0552 (7)(e), Fla. Stat., because they fail to limit the adverse impacts of development on the quality of water throughout the Florida Keys.
37. The Final Orders are inconsistent with s 380.0552 (7)(f), Fla. Stat., because they fail to enhance natural scenic resources, promote the aesthetic benefits of the natural environment, and ensure that development is compatible with the unique historic character of the Florida Keys.
38. The Final Orders are inconsistent with s 380.0552 (7)(g), Fla. Stat., because they fail to protect the historical heritage of the Florida Keys.
39. The Final Orders are inconsistent with s 380.0552 (7)(h), Fla. Stat., because they fail to protect the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including Federal parks, wildlife refuges, and marine sanctuaries; and State parks, recreation facilities, aquatic preserves, and other publicly owned properties.
40. The Final Orders are inconsistent with s 380.0552 (7)(i), Fla. Stat., because they fail to limit the adverse impacts of public investments on the environmental resources of the Florida Keys.
41. The Final Orders are inconsistent with s 380.0552 (7)(l), Fla. Stat., because they fail to protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource.

Relief Sought by the Petitioners

WHEREFORE, it is respectfully requested that the Division of Administrative Hearings conduct a formal administrative hearing on the issues raised in this Petition and enter a Final Order determining the Final Orders to be invalid for the reasons stated above.

Respectfully submitted this 7th day of July, 2006.



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent by US Mail on this 7th day of July, 2006 to the following:

Honorable Charles McCoy
Mayor of Monroe County
500 Whitehead Street, Suite 102
Key West, Florida 33040

07/07/2006 15:38 8509222679

DCA GENERAL COUNSEL

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